

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

MARK ANTHONY REYNOLDS,

Plaintiff,

v.

CIVIL ACTION NO. 5:08-cv-00340

STAT AMBULANCE SERVICE,

Defendant.

MEMORANDUM OPINION AND ORDER

On May 23, 2008, the Plaintiff filed a *Civil Complaint* pursuant to 18 U.S.C. § 2520 (Document 2). On May 21, 2009, the Plaintiff filed a *Motion for Default Judgment* (Document 4), and on June 3, 2009, filed a *Motion for Discovery* (Document 8).

By *Standing Order* (Document 3) entered on May 23, 2008, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. However, on May 21, 2009, a *Notice of Bankruptcy* (Document 6) was filed by the Defendant, and by *Order* (Document 9) entered on June 4, 2009, the Honorable Thomas E. Johnston, United States District Judge, stayed this civil action pending resolution of the Defendant's bankruptcy proceedings.

On November 23, 2009, this civil action was reassigned to the undersigned (Document 10), and on August 17, 2011, this Court directed the parties to advise the Court in writing of the current

status of the case. (Document 13). In September 2011, both parties responded and indicated that the bankruptcy proceedings were ongoing. (Documents 14 & 15). By *Order* (Document 16) entered on April 10, 2013, Magistrate Judge VanDervort ordered the parties to file a written status of the case. Neither party responded to the Court's order, and there have been no additional filings or updates from the Plaintiff since his September 1, 2011 filing (Document 14).

On July 2, 2014, Magistrate Judge VanDervort submitted a *Proposed Findings and Recommendation* (Document 17), wherein it is recommended that this Court reinstate the above matter to the active docket, deny the Plaintiff's *Motion for Default Judgment* (Document 4), dismiss the Plaintiff's *Civil Complaint* (Document 2), and remove this matter from the Court's docket. Objections to the *Proposed Findings and Recommendation* were due by July 21, 2014. None were filed by either party.¹

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and a party's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that: 1) this civil action be **REINSTATED** to the active docket, 2) the Plaintiff's *Motion for Default Judgment* (Document 4) be **DENIED**, 3) the


¹The docket reflects that the *Proposed Findings and Recommendation* mailed to the Plaintiff was returned as undeliverable on July 14, 2014.

Plaintiff's *Civil Complaint* (Document 2) be **DISMISSED**, and 4) this matter be **REMOVED** from the Court's docket.

The Court further **ORDERS** that the Plaintiff's June 3, 2009 *Motion for Discovery* (Document 8), and any remaining pending motions, be **TERMINATED AS MOOT**.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge VanDervort, to counsel of record, and to any unrepresented party.

ENTER: July 22, 2014


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA